Filed 11/29/16 P. v. Allen CA1/5

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE, Plaintiff and Respondent, v. JASON ELI ALLEN, Defendant and Appellant.	A144900 (Contra Costa County Super. Ct. No. 051010552)

Defendant Jason Eli Allen seeks reversal of the trial court's order extending his commitment for two more years pursuant to Penal Code section 1026.5, subdivision (b).[1] He contends there was a lack of substantial evidence he represented a substantial danger of physical harm to others. We affirm the trial court's order.

FACTUAL AND PROCEDURAL BACKGROUND

In 2010, Allen pled not guilty by reason of insanity (NGI) to assault by force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1).) He initially was committed to Napa State Hospital (NSH) for a term not to go beyond February 3, 2014.

In January 2014, the People petitioned to extend Allen's commitment based on the NSH medical director's opinion that Allen represented a substantial danger of physical harm to others by reason of mental disease, defect or disorder under section 1026.5, subdivision (b). In December 2014, the court conducted a jury trial, and the jury found the People's petition for Allen's re-commitment was true. The court ordered Allen's

[1] Unless noted, all further statutory references are to the Penal Code.

commitment extended for two years through no later than February 3, 2016. Allen timely appealed the recommitment order.

At trial, the prosecution called four expert witnesses, three of whom were part of Allen's NSH treatment team. These witnesses testified regarding Allen's schizophrenia diagnosis and symptoms, which included auditory hallucinations, delusions, disorganized thought processes, and disorganized behavior. They also offered testimony Allen was prescribed Risperdal, a medication commonly prescribed for individuals with schizophrenia.

Dr. Gerardo Manansala was Allen's treating psychiatrist at NSH for nearly two years, including at the point of trial. He met with Allen monthly to discuss his treatment. Manansala testified Allen still presented a substantial risk of physical harm to others, a concern driven by Allen's lack of insight into his mental illness. Sometimes Allen acknowledged his mental illness but at other times he did not. Allen had recently told his treatment team, "I'm still debating whether I have mental illness or not. Whenever I say I do, I start thinking I don't." In Manansala's opinion, Allen's lack of insight into his mental illness was an issue because if Allen did not believe he was mentally ill, he might not take his medication. Although Allen had expressed to Manansala his willingness to medicate indefinitely and his desire not to relapse, Manansala still did not feel confident Allen would self-medicate, stating it was more likely he would not continue if released back into the community. However, Manansala could not firmly state Allen would not take his medication if released.

Manansala further testified if Allen were to forego his medication, his symptoms could return and he could become physically dangerous, as he was in 2010 when he committed the charged assault. Based on that assault, Manansala agreed with the prosecution that Allen is someone who tends to become violent when exhibiting symptoms of schizophrenia. Manansala acknowledged he had read in psychiatric reports Allen may not have been taking his medication at the time of his 2010 assault, but he was not certain because no tests had been done. The psychiatrist was also aware of a two-month period at NSH when Allen was off medication and exhibited symptoms of

schizophrenia but not violence. He agreed there are schizophrenics who do not medicate who are still not dangerous and was unable to state with certainty Allen would actually be violent if he were to cease medication.

Asked whether he had an opinion as to whether Allen would have difficulty controlling his dangerous behavior if he were not under the hospital's supervision, Manansala testified, "[I]f he wouldn't take his medication . . . he would have this diminished insight. He would have this symptoms [*sic*] and that can lead to . . . dangerous behavior, difficulty controlling his emotions, just like the instant offense." He also testified Allen is "very good" with other aspects of his treatment, aside from his lack of insight. Manansala reported Allen "never had any violent behaviors" since he began treating Allen. Further, he described Allen as "very cooperative" with "excellent" attendance at his small group treatment sessions, noting, "He will do anything you want him to do and he is very good."

Dr. William Cirimele, Allen's treating psychologist at NSH for most of 2014 who met with Allen "quite regularly" and had "a lot of interaction" with him, also opined Allen posed a substantial risk of physical harm to others. Based on the results of a violence risk assessment he conducted, Cirimele assessed Allen to be a "high risk for violence if immediately released to the community without supervision." Although Allen had "more times than not" acknowledged his mental illness and recently affirmed his need to medicate, Cirimele explained Allen "still ha[d] significant lack of insight" into his mental illness. On multiple occasions, Allen expressed doubts about his mental illness and the effectiveness of the medications. This lack of insight was one of several factors making Allen a "high" violence risk and the "most concerning" factor to Cirimele. On Allen's lack of insight, Cirimele stated, "[H]e told me he actually doesn't think [he] has a mental illness. He thinks his symptoms would stay away if he didn't take medication, he doesn't need therapy, he doesn't need further treatment for mental illness." Cirimele testified after one meeting in which Cirimele thought Allen demonstrated good insight into his diagnosis, Allen told him, "Doc, you might use this against me, but if I'm gonna be brutally honest, I tell you guys what you want to hear."

Like Manansala, Cirimele viewed Allen's lack of insight as problematic because it decreased the likelihood of Allen continuing to take medication for his illness. Allen's multiple rejections of both his mental illness and his need for medication "greatly increase[d] the chances of him becoming medication noncompliant" in Cirimele's opinion. He expressed concern about Allen continuously taking his medication daily, stating, "I fear he would not take his medications if not supervised."

But Cirimele was not aware of any instance when Allen failed to take his medication or refused his medication at the hospital or when the hospital needed to involuntary medicate him or even confirm his medication compliance. Allen had never told Cirimele expressly he would not continue his treatment if he were released. "[O]bviously we don't know what's going to happen," he testified. Cirimele could not state Allen would certainly be violent in the future and agreed there are schizophrenics who lack insight who are not inherently dangerous.

Cirimele testified when Allen takes his medication, he has no problem controlling his behavior. During his treatment period with Cirimele, Allen "literally did everything we possibly could have asked for him," and Cirimele never found evidence suggesting Allen was "behaviorally unstable" while supervised. Allen regularly participated in substance abuse treatment and worked well with his treatment team; he had never been restrained or secluded, and never perpetrated violence at the hospital. Cirimele could not, however, express the same confidence about Allen's behavior outside the supervised hospital setting and observed, "When he doesn't take his medications historically he could get several [sic] psychotic and that lack of insight greatly increases the chances of him not taking the medications which is my most concerning element when it comes to a violence risk." Cirimele testified Allen "would have great difficulty in controlling his behaviors" if he were to become medication noncompliant.

Dr. Jack Aamot, who had succeeded Cirimele as Allen's treating psychologist at NSH and had treated Allen for the eight weeks before trial, also believed Allen was a risk for possible violence if released from commitment. Aamot acknowledged Allen generally had a "comprehensive understanding of his mental illness" but noted, "From

time to time [Allen] questions whether he [has a mental illness] or not." "[H]is insight comes and goes," he said. Like Cirimele, Aamot viewed Allen's lack of insight as concerning, since it suggests "a person wouldn't recognize when they started having symptoms or would not take the measures that they needed to take in order to stay well," including taking medication. In those instances when Allen questions his mental illness and has no support system, Aamot said "he would be at risk to act in ways that might not be in his best interest or the public's best interest," which could include risk of physical harm to others. Since Allen was still grappling as to whether he had a mental illness, Aamot agreed it would be dangerous for Allen to be released into the community absent any certainty he would take his medication.

At the hospital, Aamot acknowledged Allen took his medication and was engaged in his treatment, and as a result, Aamot did not deem Allen's noncompliance with medication as significant a factor in Allen's latest risk assessment as Cirimele did. He observed Allen was "doing extremely well" during the most recent eight weeks of treatment under his care and was able to control his behavior in the hospital, remarking "[h]e's doing everything that we have asked him to do." Aamot also believed if Allen had support upon his release—something which Aamot had no knowledge of—he deemed Allen a "low to moderate" risk for future violence.

The People's final witness was Dr. Katie Meseroll, a clinical psychologist and the Community Program Director at the Contra Costa Conditional Release Program, known as CONREP. She testified about her two meetings with Allen earlier in the year to evaluate his fitness for CONREP, the supervised outpatient program providing reintegration assistance to patients committed to state hospitals like NSH. Based on those meetings and her review of Allen's record, Meseroll did not feel Allen could effectively manage his mental illness or his risk for violence in the community. Like the People's other experts, Meseroll was concerned with Allen's lack of insight into his schizophrenia. At their first meeting, Allen "did not acknowledge he had a mental illness at all" and was unable to explain how the symptoms of his mental illness led to certain behaviors. At their second meeting, Meseroll testified Allen told her he had never experienced

symptoms when he was not smoking marijuana, which signified to Meseroll that Allen still lacked understanding regarding the constancy of his illness with or without drugs. Given Allen's wavering attitude about his mental illness, she testified Allen's risk of not taking his medication if he were released unsupervised into the community was a "significant concern." Accordingly, Meseroll opined if Allen were released into the community, he posed a substantial danger to the physical harm of others due to his mental illness. She further opined Allen would have difficulty controlling his dangerous behavior if he were in the community.

Additionally, Meseroll testified to two other problematic incidents involving Allen. She noted in early 2014, Allen was caught with a pornographic video, which violated a hospital rule and led to concerns about Allen's ability to follow orders and maintain safety. She also testified about troubling behavior Allen exhibited during one of their meetings in which one of Meseroll's colleagues noticed Allen "staring at [Meseroll's] groin with what she described as a fixed gaze." Meseroll herself did not observe this since she was looking down writing notes and did not know whether it happened or not. Cirimele, who attended the same meeting and was "right next to [Allen] . . . watching him closely," stated, "[Allen] may have been looking at the clipboard on her lap to see what she was writing, but my impression was he was not staring at anyone's crotch." Cirimele added, "[T]o [Allen], it was the interview for his freedom, and so I do not think by any stretch that their perception is accurate."

Generally, the People's witnesses expressed optimism about Allen's continuing treatment at NSH. Stating his belief Allen "will develop full insight about his mental illness," Manansala stated NSH would be the best place for him to gain such insight. Cirimele stated, "I would think that with . . . not much more work at all, that [Allen] could be able to get to a place where he could fully accept having a mental illness" and noted the significant progress Allen has made to date. Aamot described Allen as "almost there," in reference to being able to transfer out of his current hospital unit. He further added, "I would like to see [Allen] go through our process and go to the discharge unit next and then leave the hospital."

The defense called two witnesses. Allen, testifying on his own behalf, acknowledged he had a mental illness—schizophrenia—which he now did not question. He did not remember ever saying marijuana caused his mental illness. Asked about his need for medication, he responded, "My thought is that I need to control my symptoms and that as long as I control my symptoms, I wouldn't be a danger to myself or others." He stated he would not stop his medication even when he felt good because it could result in a relapse, and he did not want to relapse. He understood he will need medication and therapy for his entire life. However, he did not want to participate in CONREP for ongoing treatment, considering it too strict and harsh an environment. He agreed with the prosecution he could be dangerous to people in the community when not taking his medication. He also agreed with the prosecution it can be difficult for him to control his behavior if he is not taking his medication.

Angelene Musawwir, a social work supervisor at the Contra Costa County Public Defender's Office and an expert in the areas of social work and case plan developments and implementation, also testified on behalf of the defense. She had two in-person visits and a number of telephone conversations with Allen. In these meetings, Musawwir explained Allen stated clearly to her he had schizophrenia and expressed his desire to continue his medication. She testified at length about his plan for re-entry into the community if he were to be released.

DISCUSSION

Under section 1026.5, subdivision (a)(1), a person committed to a state hospital after being found not guilty by reason of insanity may be kept in custody no longer than the maximum term of commitment. However, if that person committed a felony and represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder, then the prosecuting attorney may file for a two-year commitment extension. (§ 1026.5, subd. (b)(1), (2) & (8).)

The prosecution must prove beyond a reasonable doubt the defendant suffers from a mental disease, defect, or disorder and as a result of his mental diseases, defect, or disorder, the defendant (a) poses a substantial danger of physical harm to others and

(b) has serious difficulty in controlling his dangerous behavior. (*People v. Bowers* (2006) 145 Cal.App.4th 870, 877–878 (*Bowers*).) "[W]hether any alleged mental disease, defect, or disorder causes a person to represent a substantial danger of physical harm to others is '. . . a question . . . for the trier of fact to be resolved with the assistance of expert testimony.' " (*People v. Williams* (2015) 242 Cal.App.4th 861, 872 (*Williams*).)

"We review an order to extend commitment under section 1026.5 by applying the substantial evidence test, examining the entire record in the light most favorable to the order to determine whether a rational trier of fact could have found the requirements of the statute satisfied beyond a reasonable doubt. [Citation.]" (*Williams, supra*, 242 Cal.App.4th at p. 872.) Substantial evidence is evidence that is " 'reasonable in nature, credible, and of solid value.' [Citations.]" (*People v. Johnson* (1980) 26 Cal.3d 557, 576.) Expert testimony is considered substantial evidence if it is supported by " 'relevant probative' " facts, rather than " 'guesswork, surmise, or conjecture.' " (*People v. Zapisek* (2007) 147 Cal.App.4th 1151, 1168 (*Zapisek*).) However, we do not reweigh the evidence or reevaluate the credibility of witnesses, and "[i]f the circumstances reasonably justify the trier of fact's findings, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding. [Citation.]" (*People v. Lindberg* (2008) 45 Cal.4th 1, 27.)

I.

There Was Substantial Evidence from Which a Reasonable Jury Could Find Allen Posed a Substantial Danger of Physical Harm to Others

Allen does not dispute he suffers from schizophrenia or that schizophrenia is a "mental disease, defect, or disorder" within the meaning of section 1026.5, subdivision (b)(1). Rather, he contends substantial evidence did not support the jury's finding he posed a substantial risk of physical harm to others.

The People's experts gave adequate evidence to allow the jury to infer beyond a reasonable doubt Allen posed a substantial danger of physical harm to others. Allen's doctors consistently testified he presented a substantial risk of physical harm to others. They based their opinions on statements Allen made to them demonstrating his lack of

insight into his mental illness. Manansala testified Allen did not consistently acknowledge his mental illness and recently told his treatment team he was "debating whether [he has] mental illness or not." On several occasions, Allen expressed doubts to Cirimele about his mental illness and the effectiveness of the medications. He even told Cirimele he only told the doctors what they want to hear. This in part led Cirimele to rate Allen as a "high risk for violence if immediately released to the community without supervision" in his violence risk assessment. Aamot stated, "From time to time [Allen] questions whether he [has a mental illness] or not" and "his insight comes and goes." Based on Allen's own statements, the doctors testified Allen showed a lack of insight into his mental illness, which could decrease the likelihood Allen would self-medicate if released into an unsupervised environment and cause a relapse, risking physical harm to others. Even Allen himself acknowledged he could be dangerous to people in the community when not taking his medication.

The jury was entitled to accept the opinions from Allen's doctors that his lack of insight into his mental illness could ultimately present a risk of physical harm to the public. Manansala was Allen's treating psychiatrist who met with Allen monthly over approximately two years of treatment. Cirimele was Allen's treating psychologist at NSH for most of 2014 who met with Allen "quite regularly" and had "a lot of interaction" with him. Aamot was Allen's treating psychologist for the eight weeks leading up to trial. The jury could reasonably conclude these doctors could determine Allen's potential for physical violence based on their experience and expertise. Accordingly, their opinions—rooted in Allen's own statements and bolstered by Allen's own acknowledgement of his potential dangerousness—provided substantial evidence from which the jury could have reasonably found Allen posed a substantial risk of physical harm to others.

Allen contends the People's experts reached their conclusions by "engag[ing] in speculation and conjecture about what might happen if several other events occurred" and such "vague concerns about what might possibly happen in the future are not substantial evidence." We are not persuaded. Expert testimony is considered substantial evidence if

it is supported by "relevant probative" facts. (*Zapisek, supra,* 147 Cal.App.4th at p. 1168.) Allen's doctors' conclusions stemmed from Allen's own statements to multiple doctors on multiple occasions in which he wavered on his mental illness plus the psychiatric and psychological expertise and experience of Allen's treatment providers. Further, "[a] single psychiatric opinion that a person is dangerous because of a mental disorder constitutes substantial evidence to justify the extension of commitment. [Citation]." (*Williams*, *supra*, 242 Cal.App.4th at p. 872.) Manansala's opinion alone is enough to support the jury's finding Allen posed a substantial risk of physical harm to others.

II.

There Was Substantial Evidence from Which a Reasonable Jury Could Find Allen Had Serious Difficulty Controlling His Behavior

Allen next argues there was no substantial evidence he had serious difficulty controlling his behavior, contending there is no support in the record he is unable to control his dangerousness.

Allen's commitment extension can only be affirmed if there is substantial evidence he had at the very least, serious difficulty controlling his potentially dangerous behavior. (See *Zapisek*, *supra*,147 Cal.App.4th at p. 1165.) "Th[is] added statutory requirement[] serve[s] to limit involuntary civil confinement to those who suffer from a volitional impairment rendering them dangerous beyond their control." (*In re Howard N.* (2005) 35 Cal.4th 117, 128.) " '[A] prediction of future dangerousness, coupled with evidence of lack of volitional control, adequately distinguishes between persons who are subject to civil commitment and " 'other dangerous persons who are perhaps more properly dealt with exclusively through criminal proceedings.' " [Citation.]' [Citation.]" (*People v. Sudar* (2007) 158 Cal.App.4th 655, 662–663.)

Here, although evidence was presented to the jury on both sides of this issue, it is evident the decision ordering Allen's recommitment was supported by substantial evidence. The People's experts opined Allen would have serious difficulty controlling his behavior if released unsupervised and he failed to medicate. Again, these opinions

stemmed from Allen's own statements wavering about his mental illness, indicating to his treatment team a lack of insight into his illness and the decreased likelihood for continued self-medication, leading to risk of future violence. Further, while it is not our role to reweigh the evidence, the prosecution presented evidence to the jury regarding possession of a contraband pornographic video and inappropriate gazes at Meseroll's crotch from which it could have inferred Allen could not control himself. Moreover, Allen himself acknowledged it can be difficult to control his behavior if he is not taking his medication. Accordingly, there was substantial evidence from which the jury could reasonably find Allen had serious difficulty controlling his behavior.

Allen objects based on his established track record at NSH which shows him to be "able and willing to control his dangerous behavior." He asserts he has not been violent since 2010 and now has full control of his behavior. He refers to his ability to tell his doctors what they wanted to hear as proof of his control. We decline Allen's invitation to have his strategies during treatment serve as grounds for his release. Moreover, the prosecution does not have to show Allen committed recent overt acts indicating dangerousness. (See *People v. Buttes* (1982) 134 Cal.App.3d 116, 127.) Allen's lack of recent violence in a controlled institutional setting did not prove he no longer represented a substantial danger to others when placed outside that controlled setting. Allen continues to suffer from schizophrenia and its attendant symptoms when not medicated, and the People's experts opined he would have difficulty controlling his behavior outside of this setting where he risked being noncompliant with his medication. This constituted substantial evidence Allen faced serious difficulty controlling his behavior.

Allen also seeks to undercut the People's experts, contending they lacked any "factual evidence to support [their]conclusions that [Allen] was unable to control his dangerous behavior." He argues they "relied entirely on conjecture and speculation, as there were no facts to support their opinions." He also discounts Cirimele's and Aamot's "high risk" ratings on the grounds they were derived from the same flawed assessment tool. He further criticizes Aamot's opinion that Allen presented a high risk of danger if

released without supervision because it ignored Allen's actual re-entry plan which includes both support and supervision.

We disagree on all points. Once again, the opinions rendered by the People's experts were based on their interactions with Allen, some of which had been spread across approximately two years, as well as statements made to them by Allen himself on multiple occasions during his treatment at NSH. As such, the conclusions drawn by Manansala, Cirimele and others are not premised in their speculation about Allen's insight into his mental illness but on Allen's own articulated views. Moreover, it is not up to us to determine the reliability of the violence risk assessment tool utilized by Cirimele and Aamot; "[i]t [is] for the jury to determine whether [the expert's] opinions [are] based upon reliable information. [Citations.]" (*Neumann v. Bishop* (1976) 59 Cal.App.3d 451, 463.)[2] Even if we set aside evidence of Aamot's rating because he did not account for Allen's proposed re-entry plan, there would still be substantial evidence to support the jury's finding given the other evidence before it.

Allen next contends his refusal to accept he has a mental illness and his refusal to work with CONREP are insufficient to establish his inability to control his dangerous behavior. For support, Allen relies on *People v. Galindo* (2006) 142 Cal.App.4th 531 (*Galindo*), in which the defendant similarly denied his mental illness and refused to work with CONREP. (*Id.* at pp. 533–534.) Allen argues the *Galindo* court found these factors did not establish the defendant was unable to control his behavior and reversed his recommitment order, which should be the same result here.

Allen's reliance on *Galindo* is misplaced. In *Galindo*, the court extended the defendant's commitment without making the required finding that the defendant had serious difficulty controlling his behavior. (*Galindo, supra,* 142 Cal.App.4th at p. 539.) At trial, although there was "abundant evidence that defendant's behavior was dangerous

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[2] We do note, however, that a failure to prepare a formal risk assessment akin to the one Allen criticizes has been a factor in demonstrating the absence of sufficient evidence of serious difficulty controlling one's behavior. (See *In re Anthony C.* (2006) 138 Cal.App.4th 1493, 1507.) That is not the case here where NSH performed and updated Allen's risk assessments.

and that he did not, in fact, control it," no expert opined that the defendant tried to control his behavior but had serious difficulty in doing so. (*Ibid.*) Therefore, the court remanded the case to allow the issue of control to be determined, noting it would refrain from expressing an opinion as to whether sufficient evidence can or will be adduced on remand." (*Ibid.*). Contrary to Allen's suggestion, the *Galindo* court did not reverse because it found the defendant's denial of his mental illness and refusal to work with CONREP to be insufficient evidence of his ability to control himself—an issue which had not even been reached. Here, we are not faced with an absence of expert opinion testimony on the control issue because experts and even Allen himself were asked about and testified about it.

Finally, Allen contends his situation contrasts sharply with the justifiably recommitted defendants in other select cases. He claims he is unlike the defendants in *Bowers*, *supra*, 145 Cal.App.4th 870, and *Zapisek*, *supra*, 147 Cal.App.4th 1151, because there is no evidence his auditory hallucinations or delusions cause him to become violent. Allen contends he is not like the defendant in *Williams*, *supra*, 242 Cal.App.4th 861, who never participated in treatment, never acknowledged he had a mental illness, and had no realistic relapse plan. While Allen may be correct on these points of distinction, none of these cases establish the minimum threshold for a determination of an NGI defendant's dangerousness. The requisite inability to control behavior " 'will not be demonstrable with mathematical precision. It is enough to say that there must be proof of serious difficulty in controlling behavior.' [Citation.]" (*Zapisek*, *supra*, 147 Cal.App.4th at p. 1161.) The jury could reasonably have inferred such difficulty from the testimony of the People's multiple experts.

Accordingly, we uphold the trial court's recommitment order as supported by substantial evidence. The jury could have reasonably found based on expert testimony the requirements for Allen's commitment extension were proven beyond a reasonable doubt.

III.

Allen Did Not Prove His Affirmative Defense

Where the People have proven beyond a reasonable doubt a defendant is dangerous to others, the burden shifts to the defendant to demonstrate, by a preponderance of the evidence, he "is not dangerous while medicated and will *unfailingly* self-medicate in an unsupervised environment in the future." (*People v. Bolden* (1990) 217 Cal.App.3d 1591, 1600–1601 (*Bolden*).) When experts opine a defendant lacks insight into his mental illness and the defendant's lack of insight reduces the likelihood he will self-medicate without supervision, he may not succeed in proving this affirmative defense. (*Id.* at pp. 1595, 1604.) The People's experts have proffered this very opinion. In light of this expert testimony, Allen failed to carry his burden on his affirmative defense.

Allen insists he proved his affirmative defense given he testified he would continue to take his medication and he had not refused medication nor needed to be forcibly medicated. He contends the People's experts' equivocal concerns regarding Allen's future self-medication if released does not undermine his defense. Under *Bolden*, we must consider expert testimony on the likelihood a defendant will self-medicate, not whether an expert can predict the future with certainty. (*Bolden, supra,* 217 Cal.App.3d at pp. 1595–1597.) Allen's treating psychiatrist and two of his treating psychologists have provided their expert opinions that Allen is unlikely to medicate if released without supervision. Allen presented contradictory testimony regarding his self-medication prognosis, but "it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts on which that determination depends. [Citation.]" (*People v. Jones* (1990) 51 Cal.3d 294, 314.) On this record, the jury reasonably concluded by a preponderance of the evidence Allen would not continue to self-medicate without fail in a completely unsupervised environment.

DISPOSITION

The judgment of the trial court extending Allen's commitment is affirmed.

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Jones, P. J.

We concur:

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Simons, J.

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Bruiniers, J.

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